



CITY OF MOUNTAIN VIEW

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March 7, 2007

Ross Johnson, Chair
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Re: Gifts to an Agency: Scheduled Adoption of Amendment to Regulation 18944.2

Dear Chair Johnson:

I am writing on behalf of the League of California Cities, City Attorney's Division, FPPC Committee. I have also consulted with JoAnne Speers, Executive Director of the Institute for Local Government, a division of the League of Cities, which focuses on, among other issues, public sector ethics.

As you consider the adoption of amendments to Regulation 18944.2, we hope you will consider the following points. First, we believe that the amendment to Section 18944.2(a)(1) (payment directly to a vendor) is a reasonable clarification of the amendment and will aid in this application.

To summarize our comments with respect to the other Decision Points, we request the Commission allow further study and input on those items. Interestingly, the subject of gifts to an agency and the ethical implications involved will be the subject of an April ethics column in the League's *Western City* magazine.

In addition to the request that the other decision points be deferred and discussed further, I will offer the following insights into our concerns:

- 1 On Decision Point 1, (significant or unusual benefit to any official), we would like to discuss whether or not the regulation should set forth whether a qualified gift to an agency is undermined (or negated) by the fact that one of the officials who may take advantage of the gift, thereafter receives some significant or unusual benefit that other recipients may not have received. This could arise if an official was a recipient of a trip and while on the trip did no official agency business and only went sightseeing with his or her companions; or if the official accepts special lodging or transportation as part of a travel itinerary after the gift was accepted by the agency. The regulation could be qualified simply to indicate that any significant or unusual benefit that accrues to an official after the gift qualifies under this section, would be treated as a gift to the individual, however, more discussion on this point would be helpful.

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2. "So long as the donor does not designate the specific official, officials or class of officials" may fall under the technical heading of "who are we kidding?" San Diego County's letter offers the example of the gift to an agency of tickets to visit a sister city. It should be well understood that sister cities want to see councilmembers, the mayor and maybe the city manager. They certainly are not interested in meeting the rank and file employee, or the city attorney. Therefore, we feel a discussion of the nature of these gifts is warranted.

In closing, we do believe that a regulation setting forth how and in what manner gifts to a public agency can both be accepted, managed and not result in a gift to an individual is a worthy undertaking. We believe that the Commission's work to date, and staff's recommendation on the amendments to 18944.2(a)(1) is worthy of consideration. We also believe that further discussion and evaluation need to be conducted before this regulation is put on the shelf and implemented.

The committee is aware of the Commission's workload and remains ready, willing and able to participate in further discussions as the Commission deems appropriate.

Sincerely,



Michael D. Martello
City Attorney

cc: JoAnne Speers, FPPC Committee